IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9370 OF 2004

Hanumant Nivrutti Dalvi & Ors .. Petitioners.
Vs.
Shailesh Janardhan Mulay & Anr. .. Respondents.

Mr.Avinash B.Avhad for the petitioners.

CORAM : D.B.BHOSALE, J.

DATED : 2ND DECEMBER, 2004

P.C.:

. Heard Mr.Avhad, learned counsel for the petitioners.

2. This petition is filed against the concurrent findings recorded by the courts below in the proceedings arising out of Exhibit-5 application seeking injunction restraining the respondent-defendant from dispossessing the petitioners from the suit land. The suit was filed in 2002. Exhibit-5 application was filed by the petitioners immediately thereafter. Admittedly, no ad-interim order was passed in Exhibit-5 application. The application came to be rejected on 12.9.2002. The petitioner carried that order in the appeal. The appellate court did not pass any

interim order pending hearing and final disposal of the appeal. The appeal came to be dismissed on 2.7.2004. Mr.Avhad, learned counsel for the petitioner submitted that Tahsildar, Tal.Khatav under section 138 of Maharashtra Land Revenue Code, 1966 has passed the order of eviction against the petitioner and the petitioners are likely to be dispossessed. The proper remedy, in my opinion, is to challenge the order passed by the Revenue Authority under section 138 in appropriate proceedings. At this stage Mr.Avhad informed me that the petitioners have already challenged the order of Tahsildar passed under section 138. In so far as Exhibit-5 application is concerned, both the courts below have considered all the contentions advanced by the petitioners and rejected the application and dismissed the appeal with reasoned order. Considering that there are concurrent findings recorded by the courts below and there is sufficient material/evidence on record to sustain those findings and considering extremely limited jurisdiction of this court under Article 227 of the Constitution of India to disturb the concurrent findings the present writ petition cannot be entertained. The writ petition, therefore, fails and is dismissed as such.

(D.B.Bhosale, J.)